IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO. 4961 OF 2004

Bilal Fakir Mohammed Attar ... Petitioner
vs
Smt Vithabai Nagraj Limbe & ors .. Respondnents
Mr.G.S.Godbole for Petitioner
CORAM D.G.KARNIK, J
DATE: 24TH AUGUST, 2004.

P.C.

1. Heard learned counsel for the petitioner.

2. The petitioner purchased the suit property during the pendency of the suit for possession filed by the previous landlord. The petitioner claims possession of the property on two grounds namely bonafide requirement and non-user of the suit premises.

3. As regards non-user, under the Bombay Rent Act, a decree for eviction can be passed if the premises are not used without reasonable cause for a period of six months immediately preceding the suit. As the alleged non-user is after the date of institution of the suit, the appellate Court has rightly refused to pass a decree on the ground of non-user.

4. As regards bonafide requirement, the appellate Court has rejected the claim on two grounds : It was held that the petitioner has purchased property during the pendency of the suit and therefore the petitioner was well aware at the time of the purchase that suit property was let out to the respondents and the petitioner was not going to get possession. The appellate Court held that the petitioner purchased litigation and his claim of requirement was not bonafide. The appellate Court has also noted that there was lack of proper pleadings. The petitioner is living in rented premises. No case was made out by the petitioner that his landlord was demanding possession from him. He had not pleaded the extent of the premises which were presently in his possession as a tenant. The appellate court therefore held that the petitioner had not proved his requirement to be reasonable and bonafide. The view taken by the appellate Court is a possible view and I see no reason to take a different view.

5. Petition rejected.

D.G.KARNIK, J

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